01-06-03

1754 #

Date: January 3, 2003 Label No. EV147719472US
I hereby certify that, on the date indicated above, I deposited this paper with identified attachments and/or fee with the U.S. Postal Service and that it was addressed for delivery to the Assistant Commissioner for Patents, Washington, DC 20231 by "Express Mail Post Office to Addressee" service.

Ashley Smith
Name (Print)

Ashley Smith
Signature

#7 1/15/03

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: BROWN et al.

Application No.: 10/047,440 Group Art Unit: 1754

Filed: January 14, 2002 Examiner: S. Bos

For: PROCESS FOR PRODUCING NIOBIUM AND TANTALUM COMPOUNDS

RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

January 3, 2003

Sir:

This Response to the Restriction Requirement is in response to the Office Action dated December 3, 2002, for which the Examiner has set a one-month period for response, thus making the response due on or before January 3, 2003.

In the Office Action, the Examiner requires the applicants to elect an invention selected from Group I drawn to a process of making a valve metal pentoxide encompassing claims 1-13 and 35, Group II drawn to niobium pentoxide encompassing claims 14-19, Group III drawn to tantalum pentoxide encompassing claims 20-25, or Group IV drawn to valve metal pentoxide precursor encompassing claims 26-34.

The Examiner asserts that the inventions are distinct.

The applicants respectfully traverse the restriction requirement since it is believed that there would be no serious burden on the Examiner to search the subject matter of Groups I-IV at the same time. The applicants note that claims 1-35 relate to metal pentoxides and/or processes of making same. The applicants particularly believe that Groups II and III should be examined at the same time because both niobium pentoxide and tantalum pentoxide are classified in class 423, subclass 592. Thus, there should be an overlapping in the search conducted by the Examiner for Groups II and III. While the applicants appreciate the different classes and subclasses, it appears that there will be significant overlapping in the search conducted by the Examiner and thus it would be logical to

search both groups at the same time. As set forth in M.P.E.P. § 803, if the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though the application includes claims to two distinct or independent inventions. The applicants contend that a serious burden does not exist for the Examiner to examine the subject matter of Groups I-IV and particularly Group II and Group III. Accordingly, the applicants believe all claims should be examined at this time.

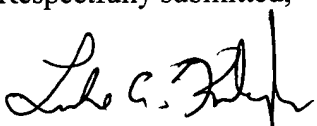
To be responsive to this Office Action, the applicants elect with traverse the subject matter of Group III encompassing claims 20-25, which relate to a tantalum pentoxide. The applicants believe by searching this subject matter which in part relates to tantalum pentoxide, the subject matter of claims 1-19 and 26-35 and particularly the subject matter of claims 14-19 will necessarily be searched. Accordingly, the applicants believe that this is another reason why all claims should be examined at this time.

At page 4 of the Office Action, the Examiner states that if the claims in either Group I or Group IV are elected, a species of election will be imposed.

As stated above, the applicants elect, and with traverse, the subject matter of Group III. Thus, an election of species is not required to comply with this Office Action.

In the event any fees are additionally required in connection with this response, please charge Deposit Account No. 03-0060.

Respectfully submitted,



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Atty. Docket No. 542,286CON (3600-226-01)
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